

Superior Court Law Library



Court Informer

September 2005

The *Court Informer* is a publication of the Superior Court Law Library, distributed every two months as a current awareness service. It includes citations to articles recently received by the Law Library as well as other materials that may be of interest to the Court. If you would like to receive a copy of any of the cited articles, please contact the Law Library Information Desk at (602) 506-3945 or return the attached request form to the Law Library. If there are any topics you would like to see covered in forthcoming issues please contact:

Susan Armstrong at (602) 506-3599 or
sarmstrong@scll.maricopa.gov

CONTENTS

Adoption, Foster Care & Juvenile Justice	1
Alternative Dispute Resolution	1
Capital Cases & Capital Sentencing	1
Courts & Court Administration	2
Criminal Justice.....	3
Evidence.....	4
Family Law	5
Guardianship & Probate	6
Juries & Jury Reform	6
Technology and the Law	6
Trial Practice.....	7
General Interest	7

Adoption, Foster Care & Juvenile Justice

1. Ellie, Louis Eric. "Teen Court's Potential Is Unrealized." *Times-Piscayune* B01 (August 10, 2005).
2. Gertner, Reni. "Teen Courts Teach Young Offenders About Law, Values." 2005 *Lawyers Weekly USA* 13 (August 29, 2005).
3. Heidman, Kate M. "Avoiding the Need to 'Unscramble the Egg:' A Proposal for the Automatic Stay of Subsequent Adoption Proceedings When Parents Appeal a Judgment Terminating Their Parental Rights." XXIV *Saint Louis University Public Law Review* 445 (2005).
4. Krinsky, Miriam Aroni. "Put Foster Kids with Relatives, *Not Strangers*, When Possible." 14 *Juvenile and Family Justice Today* 16 (Summer 2005).
5. Labbe, Theola S. "For Foster Teenagers, a Litany of Challenges; Report Outlines Ways to Teach Life Skills." *Washington Post* DE03 (September 1, 2005).
6. Lavoie, Denise. "Judge's \$250,000 Bail for 12-Year Old with Gun Stuns Attorneys; Juvenile Court Jurist Has Seen Enough." *East Valley Tribune* A9 (August 26, 2005).
7. Oppen, Peter. "Preventing Heartbreak in Adoption: Understanding the Rights of All Parties." 19 *American Journal of Family Law* 193 (Fall 2005).
8. Pokempner, Jennifer. "Permanency and Discharge Hearings for Foster Youth: A Protocol for Aiding Judges." 39 *Clearinghouse Review* 168 (July-August 2005).
9. Siebel, Liza. "Working with Teen Victims of Domestic Violence and Dating Violence." 39 *Clearinghouse Review* (July-August 2005).
10. Yardley, William. "Connecticut Governor Says Juvenile Detention Center, a Failure, Will Be Shut Down in 2008." *New York Times* A21 (August 2, 2005).

Alternative Dispute Resolution

11. Ittig, Judith B. and Michael J. Bayard. "Thirty Steps to Better Arbitration." 59 *Dispute Resolution Journal* 40 (August-October 2005).
12. Murphy, Jane C. and Robert Robinson. "Domestic Violence and Mediation: Responding to the Challenges of Crafting Effective Screens." 39 *Family Law Quarterly* 53 (Spring 2005).
13. Rosengard, Lee A. "Learning from Law Firms: Using Co-Mediation to Train New Mediators." 59 *Dispute Resolution Journal* 16 (May-July 2005).
14. Williams, Sarah. "Confidentiality in Mediation: Is It Encouraging Good Mediation or Bad Conduct?" 2005 *Journal of Dispute Resolution* 209.

Capital Cases & Capital Sentencing

15. Davis, Wendy N. "Inching Away From Death? Ineffective-Assistance Rulings Show High Court Wary of Lawyering in Capital Cases." 91 *ABA Journal* 14 (September 2005).
16. "Executed Woman to Get Pardon in Georgia." *New York Times* A9 (August 16, 2005).

17. Fife, James. "Mental Capacity, Minority, and Mental Age in Capital Sentencing: A Unified Theory of Culpability." 28 *Hamline Law Review* 237 (Spring 2005).
18. "Stevens Cites 'Serious Flaws' in Use of the Death Penalty." *Washington Post* A04 (August 8, 2005).

Courts & Court Administration

19. Caher, John. "N.Y. Judge Who Abandoned His Post for Iraq Is Removed" (September 9, 2005), available at: <http://www.law.com/jsp/article.jsp?id=1126170317116>
20. Chemerinsky, Erwin and Catherine Fisk. "Judges Do Make Law – It's Their Job." *USA Today* A11 (August 24, 2005).
21. Domino, Donna. "Confidence in State Court System Rises; However, Attorneys, Litigants See Family Law Cases as Unfair." 118 *Los Angeles Daily Journal* 1 (September 8, 2005).
22. Flynn, Susan. "The Red Hook Community Justice Center: An Evaluation of a Community Court." 33 *Journal of Psychiatry and Law* 43 (Spring 2005).
23. Grado, Gary. "Sides Differ on Ways to Help Voters Rate Judges." *East Valley Tribune* A2 (September 6, 2005).
24. Greenhouse, Linda. "Justice Weighs Desire v. Duty (Duty Prevails)." *New York Times* A1 (August 25, 2005).
25. Hillyer, Quinn. "How the Judges Are Judged." *Wall Street Journal* D7 (August 30, 2000).
26. "Jailhouse Jam: Judicial Practices Contribute to a Packed House at the Harris County Jail." *Houston Chronicle* B8 (August 23, 2005).
27. Jeffreys, Brenda Sapino. "Former Houston Judge Sentenced to Community Service and Fined" (August 15, 2005), available at: <http://www.law.com/jsp/article.jsp?id=1123751114056>
28. Liptak, Adam. "On Moral Grounds, Some Judges Are Opting Out of Abortion Cases." *New York Times* A11 (September 4, 2005).
29. Martin, Elaine and Barry Pyle. "State High Courts and Divorce: The Impact of Judicial Gender." 36 *University of Toledo Law Review* 923 (Summer 2005).
30. Perez, Virginia. "Judges Increasingly Fear Attacks" (August 9, 2005), available at: <http://www.argusleader.com/apps/pbcs.dll/article?AID=/20050809/NEWS/508090317/1001>
31. Rapattoni, Linda. "Courts Change Domestic-Violence Procedures." 118 *Los Angeles Daily Journal* 1 (August 19, 2005).
32. Tebo, Margaret Graham. "Keeping It Safe: Measures Are Being Taken to Curb Violence Against Judges and Lawyers But Will They Be Enough?" 91 *ABA Journal* 40 (August 2005).
33. Wathen, Honorable Daniel E. "When the Court Speaks: Effective Communication as a Part of Judging." 57 *Maine Law Review* 449 (2005).

Criminal Justice

34. Baker, Katharine K. "Gender and Emotion in Criminal Law." 28 *Harvard Journal of Law & Gender* 447 (Summer 2005).
35. Bontrager, Stephanie, William Bales and Ted Chiricos. "Race, Ethnicity, Threat and the Labeling of Convicted Felons." 43 *Criminology* 589 (August 2005).
36. Council, John. "Study Reveals Little Change in Sentencing Habits after 'Booker'" (August 11, 2005), available at: <http://www.law.com/jsp/article.jsp?id=1123684510748>
37. Finch, Susan. "Wrongfully Convicted Get Ally on Bench: La. High Court Judge Sponsors Measure." *Times – Picayune* A05 (August 21, 2005).
38. Henderson, Lisa. "Sex Offenders: You Are Now Free to Move about the Country. An Analysis of Doe v. Miller's Effects on Sex Offender Residential Restrictions." 73 *UMKC Law Review* 797 (Spring 2005).
39. Lieb, David A. "States Opt for Lifetime GPS Tags on Molesters." *Arizona Republic* A22 (July 30, 2005).
40. Parker, Laura. "8 Years in a Louisiana Jail, But Never Went to Trial; Poor Sometimes Languish Behind Bars as They Wait to See Lawyers; Public Defenders' Offices Swamped." *USA Today* A1 (August 29, 2005).
41. Post, Leonard. "State's 'Blakely' Ruling Roils Sentencing Waters; Minn. High Court Ruling May Mean Resentencing in Many Felony Cases." 28 *National Law Journal* 6 (September 19, 2005).
42. Reed, Thomas J. "Admitting the Accused's Criminal History: The Trouble with Rule 404(b)." 78 *Temple Law Review* 201 (Spring 2005).
43. Ryan, Elizabeth A. "The 13th Juror: Re-Evaluating the Need for a Factual Sufficiency Review in Criminal Cases." 37 *Texas Tech Law Review* 1291 (Summer 2005).

Ethics

44. Boackle, R.F. "Malpractice Prevention for the Residential Real Estate Closing (With Forms)." 21 *Practical Real Estate Lawyer* 19 (September 2005).
45. Castillo, Melissa L. "A Duty to Warn: Representing the Non-Citizen in a Criminal Case [*State v. Murihi*, 46 P.3d 1145 (Kan. 2001)]." 44 *Washburn Law Journal* 627 (Spring 2005).
46. Fass, Mark. "Judge Orders Attorney to Return Passport Held in Fee Dispute" (August 23, 2005), available at: <http://www.law.com/jsp/article.jsp?id=1124714414445>
47. Feldman, Joel S. "Class Action Defense: A Practical Guide with Ethics in Mind." 31 *Litigation* 24 (Summer 2005).
48. Glater, Jonathan. "The Squeezing of Lawyer-Client Privilege." *New York Times* C6 (September 7, 2005).
49. Greenstein, Maria N. "The Judge as Employer." 44 *Judges' Journal* 42 (Spring 2005).
50. Hammond, Celeste M. "The Unauthorized Practice of Law: How Transactional Lawyers Can Avoid It." 19 *Probate & Property* 54 (July/August 2005).

51. Hornsby, Jr., William E. "Ethics and Lawyer Blogs." 31 *Law Practice* 38 (July/August 2005).
52. Johns, A. Frank. "What's an Elder Law Attorney to Do?" 15 *Experience* 14 (Summer 2005).
53. Leisinger, Amy L. "A Criminal Defendant's Inability to Sue His Lawyer for Malpractice: The Other Side of the Exoneration Rule [*Canaan v. Bartee*, 72 P.3d 911 (Kan. 2003)]." 44 *Washburn Law Journal* 693 (Spring 2005).
54. Levin, Leslie C. "Lawyers in Cyberspace: The Impact of Legal Listservs on the Professional Development and Ethical Decisionmaking of Lawyers." 37 *Arizona State Law Journal* 589 (Summer 2005).
55. Rashbaum, William K. "Long Island Judge Arrested in Money Laundering Case." *New York Times* A17 (August 31, 2005).
56. Sheen, Donna. "Professional Responsibility toward Children in Trouble with the Law." 5 *Wyoming Law Review* 483 (2005).
57. Vance, Catherine E. and Corinne Cooper. "Nine Traps and One Slap: Attorney Liability Under the New Bankruptcy Law." 79 *American Bankruptcy Law Journal* 283 (Spring 2005).
58. Wright, Jr., William E. "Ethical Considerations in Representing Multiple Parties in Litigation." 79 *Tulane Law Review* 1523 (June 2005).

Evidence

59. Bruno, Lisa K. "E-Mail Interception May Violate Federal Wiretap Act." 2005 *Lawyers Weekly USA* 2 (August 29, 2005).
60. Glater, Jonathan D. "More and More, Expert Witnesses Make the Difference." *New York Times* C7 (August 19, 2005).
61. Goodnough, Abby and Terry Aguayo. "25 Years Later, DNA Test Comes to a Man's Defense; Contradicts Witnesses Officials Say." *New York Times* A11 (August 3, 2005).
62. Holl, John. "A New Way to Trace a Gunshot to Its Source." *New York Times* A20 (August 17, 2005).
63. Iqbal, Mohammad. "The New Paradigms of E-Discovery and Cost-Shifting." 72 *Defense Counsel Journal* 283 (July 2005).
64. Imwinkelried, Edward J. "A 'Daubert' Checklist." 28 *National Law Journal* 12 (September 12, 2005).
65. Jackman, Tom. "Paternity Suit Raises Doubts about DNA Tests; Va. Judge Rejects Results, Questions Lab Work in Case of D.C. Hair Salon Owner." *Washington Post* C01 (August 21, 2005).
66. Jadhav, Adam. "Officials Hail New Crime Lab." *Boston Globe* B2 (August 25, 2005).
67. Laird, Lorelei. "Plaintiff's Bar Worries about E-Discovery Rules." 118 *Los Angeles Daily Journal* 1 (August 18, 2005).
68. Polanco, Kimberly A. "The Fourth Amendment Challenge to DNA Sampling of Arrestees Pursuant to the Justice for All Act of 2004: A Proposed Modification to the Traditional Fourth

Amendment Test of Reasonableness." 27 *University of Arkansas at Little Rock Law Review* 483 (Spring 2005).

69. Saltzman, Jonathan. "Prosecutors to Retry Twin in Case Marked by DNA Limits." *Boston Globe* B1 (August 26, 2005).
70. Sanders, Richard J. "Evidence Sufficiency and Fundamental Error in Criminal Cases." 79 *Florida Bar Journal* 28 (July/August, 2005).
71. Talan, Jamie. "Brain Scan New Lie Detector? Recent Studies Hint at Possibility." *Arizona Republic* A30 (September 25, 2005).
72. Willing, Richard. "DNA Tests Offer Clues to Suspect's Race; Advances Can Tell Police What, not Whom to Look for, but Ethicists Worry about Racial Profiling." *USA Today* A1 (August 17, 2005).

Family Law

73. Carter, Sherrie Bourg. "Challenges of Child Witnesses in Family Law Proceedings." 19 *American Journal of Family Law* 165 (Fall 2005).
74. "Child Support by the Numbers." *USA Today* A1 (August 25, 2005).
75. Cicero-Dominquez, Salvador. "The Mexican Migrant Child in Custody of Child Protective Services: The Need for Consular Notification Agreements." 25 *Children's Legal Rights Journal* 1 (Summer 2005).
76. Council, John. "Court Restricts Overnight Visitors for Divorced Parents" (August 8, 2005), available at: <http://www.law.com/jsp/article.jsp?id=1123232713113>
77. Erickson, Nancy S. "Use of the MMPI-2 in Child Custody Evaluations Involving Battered Women: What Does Psychological Research Tell Us?" 39 *Family Law Quarterly* 87 (Spring 2005).
78. Filosa, Gwen. "Safe Haven; Center Gives Children a Place for Court-Ordered, Supervised Visits." *Times-Picayune* B1 (August 17, 2005).
79. Gonzales, Annette M. and Linda M. Rio Reichmann. "Representing Children in Civil Cases Involving Domestic Violence." 39 *Family Law Quarterly* 197 (Spring 2005).
80. Guyot III, Robert B. "Using a Parent Coordinator in a High-Conflict Case." 19 *American Journal of Family Law* 178 (Fall 2005).
81. Harris, Andrew. "Court Orders \$60,000 Bond to Ensure Visitation" (August 10, 2005), available at: <http://www.law.com/jsp/article.jsp?id=1123578313007>
82. Mabry, Cynthia R. "Disappearing Acts: Encouraging Fathers to Reappear for Their Children." 7 *Journal of Law & Family Studies* 111 (2005).
83. Shaw, Lani P. "Show Me the Money!: Analyzing an Adult Child's Standing to Recover Retroactive Child Support Payments." 48 *Howard Law Journal* 1053 (Spring 2005).
84. Tebo, Margaret Graham. "When It Comes to Work Expert Say Employers Should Seek a Balance Approach to Dealing with Workers Facing Domestic Violence." 91 *ABA Journal* 42 (September 2005).

85. Tooher, Nora Lockwood. "Private Judging 'All the Rage' for Quick, but Costly California Divorces." 2005 *Lawyers Weekly USA* 13 (August 1, 2005).
86. Wiley, John K. "Panel Upholds Voiding Divorce Because Woman Was Pregnant." 118 *Los Angeles Daily Journal* 4 (August 5, 2005).

Guardianship & Probate

87. Gary, Susan N. "Posthumously Conceived Heirs." 22 *GPSolo* 16 (September 2005).
88. Gertner, Reni. "'Inheritor's Trust' New Trend In Estate Planning; Helping Clients Direct Their Own Inheritances." 2005 *Lawyers Weekly USA* 1 (August 1, 2005).

Juries & Jury Reform

89. Caher, John. "Jury Turnabout 'Unique,' Says Courtroom Observers" (August 3, 2005), available at: <http://www.law.com/jsp/article.jsp?id=1122992906933>
90. Domino, Donna. "New Instructions Ease Legalese; Panel Distills Jargon for Criminal Jurors into Plain English." 118 *Los Angeles Daily Journal* 1 (August 26, 2005).
91. Fass, Mark. "Judge Tosses Verdict over Jury Use of Dictionary to Define Term" (August 4, 2005), available at: <http://www.law.com/jsp/article.jsp?id=1123059911527>
92. Murphy, Shelley. "Minorities Sought for Trial Jury; Specific Zip Codes to Be Targeted." *Boston Globe* B3 (September 1, 2005).
93. Post, Leonard. "Study: Dissenting Jurors Get Short Shrift." 27 *National Law Journal* 4 (August 8, 2005).
94. Roberts, Sam. "Case Is Appealed Over Lack of West Indians on the Jury." *New York Times* 26 (August 28, 2005).
95. Rose, Mary R. "A Dutiful Voice: Justice in the Distribution of Jury Service." 39 *Law & Society* 601 (2005).
96. Saccone, Mike. "Bringing Diversity to Jury Pools." *American Lawyer* 131 (September 2005).
97. Shaffer, Stefanie. "Mass. Judge: Denying Jurors a Smoke Doesn't Change Verdict" (August 1, 2005), available at: <http://www.law.com/jsp/article.jsp?id=1122368709092>

Technology and the Law

98. Barnett, Thomas and Sara Wood. "Winning the Electronic Data Discovery Game." 47 *For the Defense* 20 (August 2005).
99. Harmon, Daniel E. "Oversights & Excesses: Things Lawyers Fail to Do – Or Do Badly – With Hi Tech." 22 *Lawyer's PC* 1 (September 1, 2005).
100. Pollak, Steven H. "The Pros and Cons of Updating Court Technology: A Battle of Budget Cuts, Fiefdoms and Priorities." 27 *National Law Journal* 17 (August 22, 2005).
101. Sullivan, Thomas P. "Electronic Recording of Custodial Interrogations: Everybody Wins." 95

Journal of Criminal Law & Criminology 1127 (Spring 2005).

102. "Tucson Plans E-Citations; Police Will Swipe Driver's Licenses Through Device." *Arizona Republic* B10 (August 12, 2005).

Trial Practice

103. Berkman, Eric. "Meeting the Challenge of Time-Limited Voir Dire." 2005 *Lawyers Weekly USA* 15 (September 12, 2005).
104. Litton, Paul. "The 'Abuse Excuse' in Capital Sentencing Trials: Is It Relevant to Responsibility, Punishment, or Both?" 42 *American Criminal Law Review* 1027 (Summer 2005).
105. Roberts, Janet. "Judges Crack Down; Text Messaging, Photo Capabilities Threaten Cell Phone Use in Courtroom." 15 *Law Office Computing* 16 (August/September 2005).
106. Tooher, Nora Lockwood. "Trial Consultants' Role Challenged as Their Influence Expands." 106 *Arizona Capitol Times* 23 (September 16, 2005).

General Interest

107. Applebome, Peter and Jonathan D. Glater. "Storm Leaves Legal System a Shambles." *New York Times* A1 (September 9, 2005).
108. Bodzin, Steven and Mary Curtius. "Constitution Day Debut Nears, Amid Confusion." *Arizona Republic* A6 (August 28, 2005).
109. Burke, Melissa Nann. "City Holds \$1 Million Owed to 190 Court-Appointed Lawyers" (August 2, 2005), available at: <http://www.law.com/jsp/article.jsp?id=1122899714402>
110. Clemetson, Lynette. "Meese's Influence Looms in Today's Judicial Wars." *New York Times* A1 (August 17, 2005).
111. "Drunken-Driving Deaths Decline in Arizona in '04." *Arizona Republic* B7 (August 24, 2005).
112. Edgar, Jaclyn. "Doctor v. Attorney: Why Are Attorneys and Injured Patients Being Blamed for the Rising Costs of Healthcare? Instead of Tort Reform, Why Medical Reform Is a Better Solution." 73 *UMKC Law Review* 773 (Spring 2005).
113. Fine, Victoria E. "Law Firms Begin Training Attorneys to Communicate in Clear, Simple English." 118 *Los Angeles Daily Journal* 6 (August 4, 2005).
114. Funkhouser, Jessica. "Right to Know vs. Right to Privacy; Release of Public Records a Tough Official Decision." *Arizona Republic* V3 (September 11, 2005).
115. Ghetti, Michelle. "Katrina Brings Lawyers, Courts – Justice Itself – to Their Knees." 118 *Los Angeles Daily Journal* 8 (September 1, 2005).
116. Hays, Tom. "N.Y. Surveillance under Scrutiny; Cameras' Spread Creates Dismay for Civil Libertarians." *East Valley Tribune* A9 (August 15, 2005).
117. Kesmodle, David. "Lawyers Delight: Old Web Material Doesn't Disappear; Wayback Machine and Google Archive Billions of Pages, Including Deleted Ones." *Wall Street Journal* A1 (July 27, 2005).

118. Kupers, Larry. "The Woeful Tale of the United States Supreme Court and Disproportionate Punishment-Constitutional Protection for Large Corporations, Not Human Beings." 62 *Guild Practitioner* 12 (Winter 2005).
119. Mcghee, Tom. "Outsourcing of U.S. Jobs Extending to the Legal Field." *Arizona Republic* D1 (August 7, 2005).
120. Menn, Joseph. "Lawyers Plan Deluge of Suits after Katrina; Sights Set on Real Estate Firms, Insurers, Feds." *Arizona Republic* D1 (September 17, 2005).
121. Ongerth, Sharon E. "The Ramificationf of Megan's Law for Employers." 31 *Employee Relations Law Journal* 17 (Autumn 2005).
122. "Study: Federal Tort Trials Fall 80 Percent." 2005 *Lawyers Weekly USA* 3 (August 29, 2005).
123. Thomas, Ken. "Traffic, Alcohol-Related Deaths Down 2nd Straight Year in U.S." *Arizona Republic* A3 (August 2, 2005).
124. White, Jane. "Right to Know vs. Right to Privacy; Residents Empowered by Public Record Law." *Arizona Republic* V3 (September 11, 2005)

Court Informer Request Form

September 2005

If you would like copies of any articles cited in the *Court Informer* please **circle** the corresponding number and send this form to the Law Library, ECB, 2nd Floor.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20
21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40
41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80
81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
101	102	103	104	105	106	107	108	109	110	111	112	113	114	115	116	117	118	119	120
121	122	123	124																

Name: _____

Location: _____

Telephone Number: _____